

UNITED STATES OF AMERICA	)	
	)	
v.	)	CAUSE NO. 3:09CR-0087 (1) RLM
	)	
DAVID W. SOUTHERTON	)	

- (1) that defendant is competent to plead guilty;
- (2) that the defendant understands that his answers may later be used against him in a prosecution for perjury or false statement;
- (3) that defendant understands the nature of the charge against him to which the plea is

offered;

(4) that the defendant understands the charge and what the maximum possible sentence is, including the effect of the supervised release term, and defendant understands that the sentencing guidelines apply and that the Court may depart from those guidelines under some circumstances;

(5) that the defendant understands his right to trial by jury, to persist in his plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse witnesses, and his right against compelled self-incrimination; to appeal his conviction, if convicted, and that the defendant has knowingly and voluntarily waived those rights, and wishes to plead guilty.

(6) that the plea of guilty by the defendant has been knowingly and voluntarily made and is not the result of force or threats or of promises apart from the plea agreement between the parties; and,

(7) that there is a factual basis for the defendant's plea.

In light of those findings, I now recommend that; (1) the Court accept the defendant's plea of guilty (2) that the defendant be adjudged guilty of **Count 1** of the Indictment, in violation of Title 18 U.S.C. §922(g)(3), and have sentence imposed. A Presentence Report has been ordered. Should this Report and Recommendation be accepted and the Defendant adjudged guilty, sentencing has been scheduled for **December 29, 2009 at 9:30 a.m.** (EST), before Chief Judge Robert L. Miller, Jr. Sentencing memorandum and any motions shall be filed no later than **December 22, 2009**. Objections to the Findings and Recommendation are waived unless filed and served within ten (10) days. 28 U.S.C. § 636(b)(1)(B).

DATED: October 16, 2009

s/Christopher A. Nuechterlein  
Christopher A. Nuechterlein  
United States Magistrate Judge